

BARNES & THORNBURG LLP

11 South Meridian Street
Indianapolis, Indiana 46204
(317) 236-1313
(317) 231-7433 Fax

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Customer No.:	23643	}	
		}	
Group:	1618	}	
		}	
Confirmation No.:	9879	}	
		}	
Application No.:	10/765,336	}	FILED ELECTRONICALLY:
		}	
Patent No.:	7,601,332	}	November 11, 2009
		}	
Invention:	VITAMIN RECEPTOR BINDING	}	
	DRUG DELIVERY CONJUGATES	}	
		}	
Inventor:	Iontcho R. Vlahov, et al.	}	
		}	
Filed:	January 27, 2004	}	
		}	
Attorney Docket:	20150-74359	}	
		}	
Examiner:	Dameron Levest Jones	}	

REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT **UNDER 37 C.F.R. §1.705(d)**

Mail Stop Patent Extension
Director for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

In regard to the above-identified U.S. Patent Application Serial No. 10/765,336 (now U.S. Patent No. 7,601,332, issued October 13, 2009), the Office has stated in the ISSUE NOTIFICATION letter that the Patent Term Adjustment (PTA) under 35 U.S.C. 154(b) has been determined to be 478 days. It is respectfully requested that the Office reconsider and revise the PTA to **1055 days**, which is believed to be the correctly calculated PTA. The Patentees had previously filed a Request for Reconsideration of PTA on June 26, 2009. The Office responded on August 24, 2009, stating that the request is DISMISSED AS PREMATURE. The Patentees are hereby timely re-filing the Request for Reconsideration of PTA under 37 C.F.R. § 1.705(b), as it is being filed less than two months after the issue date of the patent.

The revised PTA was determined according to the grounds for adjustment under 37 C.F.R. § 1.702(a) and 37 C.F.R. § 1.702(b) and was calculated according to the periods of adjustment under 37 C.F.R. § 1.703(a) and 37 C.F.R. § 1.703(b). Furthermore, the revised PTA is established according to the recent decision by the U.S. Court for the District of Columbia in *Wyeth v. Dudas*, 580 F.Supp.2d 138, 88 U.S.P.Q.2d 1538 (D.D.C. 2008). A summary of the revised PTA is below.

	Relevant Dates	Period of Adjustment
Examination Delay under 37 C.F.R. § 1.702(a)	<p><i>37 C.F.R. § 1.703(a)(1)</i></p> <p>Filing date of patent application: <u>January 27, 2004</u></p> <p>Fourteen months after filing date of patent application: <u>March 27, 2005</u></p> <p>First Action mailed by USPTO: <u>January 17, 2007</u></p>	Difference for which patentee should receive credit: <u>+ 661 days</u> ,
Examination Delay under 37 C.F.R. § 1.702(b)	<p><i>37 C.F.R. § 1.703(b)</i></p> <p>Filing date of patent application: <u>January 27, 2004</u></p> <p>Three years after filing date of patent application: <u>January 27, 2007</u></p> <p>Date of filing an RCE by Applicant: <u>August 26, 2008</u></p>	Difference for which patentee should receive credit: <u>+ 577 days</u> ,
Circumstances under 37 C.F.R. § 1.704(b)	<p><i>37 C.F.R. § 1.704(b)</i></p> <p>Request for a three-month Extension of Time</p> <p>Office Action mailed by USPTO: <u>June 29, 2007</u></p> <p>Three-month due date: <u>September 29, 2007</u></p> <p>Response received by USPTO: <u>December 13, 2007</u></p>	Difference for which §1.702 period of adjustment should be reduced: <u>-75 days</u>

	Relevant Dates	Period of Adjustment
Circumstances under 37 C.F.R. § 1.704(b)	<p>37 C.F.R. § 1.704(b)</p> <p>Request for a two-month Extension of Time</p> <p>Office Action mailed by USPTO: <u>March 26, 2008</u></p> <p>Three-month due date: <u>June 26, 2008</u></p> <p>Response received by USPTO: <u>August 26, 2008</u></p>	Difference for which §1.702 period of adjustment should be reduced: <u>-61 days</u>
Circumstances under 37 C.F.R. § 1.704(b)	<p>37 C.F.R. § 1.704(b)</p> <p>Request for a two-month Extension of Time</p> <p>Office Action mailed by USPTO: <u>October 29, 2008</u></p> <p>Three-month due date: <u>January 29, 2009</u></p> <p>Response received by USPTO: <u>March 17, 2009</u></p>	Difference for which §1.702 period of adjustment should be reduced: <u>-47 days</u>
Total PTA as of Date of Filing an RCE by Applicants		<u>1055 days</u>

Pursuant to the decision rendered in *Wyeth v. Dudas*, a patentee is entitled to PTA credit for examination delay under 37 C.F.R. § 1.702(a) in addition to any examination delay under 37 C.F.R. § 1.702(b), to the extent that the two periods of delay do not “occur on the same calendar day or days.” *Wyeth*, 580 F.Supp.2d at 140, 88 U.S.P.Q.2d at 1540. A copy of *Wyeth* is attached hereto as “Attachment A” for the Office’s convenience.

Accordingly, the Patentees of the above-identified patent are entitled to a credit for the sum of 661 days under 37 C.F.R. § 1.702(a) and 577 days under 37 C.F.R. § 1.702(b), for a total of 1238 days, subject to a reduction of 183 days under 37 C.F.R. § 1.704. Thus, the Patentees respectfully submit the total PTA is **1055 days**.

The above-identified patent is not subject to a terminal disclaimer. The Patentees respectfully request revision of the PTA as set forth above. The Director is hereby authorized to charge the fee of \$200.00 in payment for the reconsideration request under 37 C.F.R. § 1.18(e) to Deposit Account No. 10-0435, with reference to our Matter No. 20150-74359. The Patentees believe that no other fees are required with the filing of this request. However, if fees are due, the Director is hereby authorized to charge any additional fees which may be required, or credit any overpayment, to Deposit Account No. 10-0435, with reference to our Matter No. 20150-74359.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Bassam S. Nader", followed by a long horizontal flourish line extending to the right.

Bassam S. Nader
Registration No. 61816
Agent for Patentees

BSN/jrt
Indianapolis, Indiana 46204
317-231-6415